IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE THIRTIETH DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE M.H.S. ANSARI

AND
THE HON'BLE MR JUSTICE ELIPE DHARMA RAO

WRIT PETITION NOs : 24833, 24880 AND 24905 of 2004

I. WRIT PETITION NO : 24833 of 2004

Between:

M/s. Quality Care India Limited, Road No.1, Banjara Hills,

Hyderabad, Rep. by its Chairman & Managing Director,

Sri Dr. B. Soma Raju.

..... PETITIONER

AND

1. The Commercial Tax Officer, M.J. Market Circle, Hyderabad.

2. The Regional Vigilance & Enforcement Officer, City Division.

3. The Commissioner of Commercial Taxes, Andhra Pradesh,

Hyderabad.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the affidavit filed herein the High Court will be pleased to issue a writ or order or direction particularly one in the nature of Writ of Certiorari after calling for the records and quash the impugned show cause notice dated 23-11-2004 issued by the first respondent for the assessment year 2002-2003 under the APGST Act.

II. WRIT PETITION NO : 24880 of 2004

Between:

M/s.Quality Care India Limited, Road No.1, Banjara Hills,
Hyderabad, rep., byits Chairman & Managing Director,

Sri Dr.B.Soma Raju

..... PETITIONER

AND

1. The Commercial Tax Officer, M.J.Market Circle, Hyderabad.

2. The Regional Vigilance & Enforcement Officer, City Division.

3. The Commissioner of Commercial taxes, Andhra Pradesh,

Hyderabad.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the affidavit filed herein the High Court will be pleased to issue a writ or order or direction particularly one in the nature of writ of certiorari after calling for the records and quash the impugned show cause notice dated 23-11-2004 issued by the first respondent for the assessment year 2003-04 under the APGST Act.

III. <u>WRIT PETITION NO : 24905 of 2004</u>

Between:

M/s.Quality Care India Limited, Road No.1, Banjara Hills,

Hyderabad, represented by its Chairman and Managing Director

Sri Dr.B.Soma Raju

..... PETITIONER

AND

1. The Commercial Tax Officer, M.J.Market Circle, Hyderabad.

2. The Regional Vigilance & Enforcement Officer,

City Division, Hyderabad.

3. The Commissioner of Commercial taxes, Andhra Pradesh,

Hyderabad.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the affidavit filed herein the High Court will be pleased to issue a writ or order or direction particularly one in the nature of writ of certiorari after calling for the records and quash the impugned show cause notice dated 23-11-2004 issued by the first respondent for the assessment year 2004-05 (upto July, 2004) under the APGST Act.

Counsel for the Petitioner

In all the cases : MR.S.KRISHNA MURTHY

Counsel for the Respondents:

in all the cases GP FOR COMMERCIAL TAX

The Court at the stage of admission made the following :

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C O M M O N O R D E R

(Per Sri Justice M.H.S.Ansari)

What is questioned in the instant writ petitions is the show cause notices issued by the Commercial Tax Officer proposing final assessment for the years 2002-2003, 2003-2004 and 2004-2005 (upto July, 2004) on the turnovers specified therein.

Normally interference with a show cause notice is made, when the same is issued by an authority having no jurisdiction in the matter or when the jurisdiction sought to be exercised, is contrary to statutory provisions or in violation of principles of natural justice. The very object of issuing a show cause notice is to afford the recipient of the notice, an opportunity of being heard in the matter. Such opportunity has been afforded in the instant matters by the impugned show cause notices. It is not a case where the notices were issued by an authority not competent in that behalf.

The question whether the final assessment can be made on the basis of the turnovers specified therein or not, is a matter within the jurisdiction of the authority. It is open to the petitioner to raise all such objections as are open to it on facts and law before the said authority. It is therefore, not a case where interference is warranted at this stage with the impugned show cause notices.

However, as it has been brought to our notice that reply has not been filed to the show cause notices within the period specified therein, as the instant writ petitions were filed, we are inclined to grant one week time from date to enable the petitioner to submit his reply to the impugned show cause notices. If such reply is filed within the time stipulated above, it shall be open to the first respondent to dispose of the matters in accordance with law.

We need to clarify that we have not gone into the merits of the main controversy and all questions are kept open. The matters shall be heard and disposed of in accordance with law uninfluenced by any observation or statement made in this order.

With the observations and directions as above, writ petitions accordingly stands disposed of at admission stage.

JUSTICE M.H.S.ANSARI

JUSTICE ELIPE DHARMA RAO

30th December, 2004

PGS

To

1. The Commercial Tax Officer, M.J. Market Circle, Hyderabad.

2. The Regional Vigilance & Enforcement Officer, City Division.

3. The Commissioner of Commercial Taxes, Andhra Pradesh, Hyderabad.

4. 2 CCs to the Govt. Pleader for Commercial Taxes, High Court of A.P., Hyderabad (OUT).

5. 2 CD copies.

THE HON'BLE MR JUSTICE M.H.S. ANSARI

AND
THE HON'BLE MR JUSTICE ELIPE DHARMA RAO

WRIT PETITION Nos.24833, 24880 AND 24905 of 2004

(Per Sri Justice M.H.S.Ansari)

30th December, 2004